

REMARKS

Claims 1-17 are pending in the present application. Applicant has amended claims 1, 12, 13, 15 and 16. No claims have been added or cancelled. Applicant respectfully submits that the claims as presented are allowable.

The Examiner rejected claims 1, 5, 7, 10 and 11 under 35 U.S.C § 102(b) as being anticipated by Weissbuch (US Pat. No. 5,478,312) ("Weissbuch"). Applicant respectfully submits that the claims as presented are allowable over Weissbuch.

Referring to claim 1 as a representative claim of claims 1, 5, 7, 10 and 11, claim 1 recites "a dome-shaped bell having . . . a plurality of apertures extending between an interior and an outer surface of the dome-shaped bell and configured to allow water flow when the device is moved through water." Applicants respectfully submit that Weissbuch does not show or discuss this element. The cup shown in Weissbuch has a solid surface and does not have any apertures.

Regarding claims 2-11, these claims depend from claim 1 which applicant respectfully submits is allowable. Accordingly, claim 2-11 are at least allowable as depending from an allowable base claim.

The Examiner rejected claims 2-4, 8 and 9 under 35 U.S.C § 103(a) as being unpatentable over Weissbuch view of MacKechnie (4,623,142). Applicants respectfully submit that neither Weissbach, MacKechnie, nor a combination of both, teach or suggest every element of any one of claims 2-4, 8, or 9. Claim 2 depends from claim 1 which recites a dome-shaped bell having an opening opposite an apex of the dome-shaped bell and a plurality of apertures extending between an interior and an outer surface of the dome-shaped bell and configured to allow water flow when the device is moved through water and a handle connected to the interior of the dome-shaped bell and extending from the apex through the opening." As discussed above, Weissbuch does not show a dome shaped bell with a plurality of apertures. Applicants respectfully submit that MacKechnie does not show or discuss a dome shaped bell with apertures and having an opening opposite the apex of the dome-shaped bell.

Further, applicants respectfully submit that MacKechnie does not show or discuss a device that includes a handle connected to the interior of a dome-shaped bell having apertures and that extends from the apex of the bell to an opening opposite the apex. MacKechnie shows a device where a handle is connected to the outer surface of a ball having holes. (See FIG. 9A and FIG. 9B). The handle in MacKechnie is not connected to an interior of a bell that includes apertures.

Applicants respectfully submit that no motive exists to combine the cited prior art sources. The water dumbbell with swiveling cups taught by Weissbuch is significantly different from the dumbbell with hollow balls set forth in MacKechnie. Weissbuch describes a devices that can be adjusted by a user to change the resistance in water. On the other hand, the primary objective of the MacKechnie invention is to provide a balanced device that will substantially increase the amount of effort needed to move the device through water in any direction. There is no motivation to combine MacKechnie with Weissbuch because they apply to different types of solutions to different types of problems. One skilled in the art of lightweight water dumbbells would not be motivated to combine a solution for moving a device in any direction with a adjustable dumbbell.

Applicants respectfully submit that the cited prior art is only combined in retrospect, in light of the present invention. That is, the obviousness rejection is based upon characterization of MacKechnie and Weissbuch in view of the applicants' own invention description. Applicants respectfully submit that the Examiner has combined the references by observing that Weissbuch does not teach or suggest a plurality of fins and that MacKechnie includes a disclosure of fins on a water exercise device. There is no suggestion in either reference to combine the references.

Further, the Examiner has not set forth any evidence or reasoning to establish reasonable expectation that Weissbuch and MacKechnie, when combined, will succeed in an aquatic exercise device having a dome-shaped bell with apertures and fins. Simply combining the two references results in a system that still experiences the prior art problems of non-uniform resistance when moved through water. The combination of adjustable cups discussed in Weissbuch and the exercise device with fins in MacKechnie does not solve resistance problems associated with moving an aquatic exercise device through water. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection.

The Examiner rejected claims 6 and 12-14 under 35 U.S.C § 103(a) as being unpatentable over Weissbuch in view of Solloway (4,468,023). Regarding claim 12, claim 12 recites "a handle having a first end connected to an interior of the first dome-shaped bell through a first bell opening and a second end connected to a second interior of the second dome-shaped bell through a second bell opening" where the dome shaped bells have a plurality of apertures and fins. Applicants respectfully submit that neither Weissbuch, Solloway, nor a combination of the two, teach or suggest these features. As explained above, Weissbuch does not teach or suggest a dome-shaped bell with apertures. Solloway does not teach or suggest a dome-shaped bell with apertures. When the device in Solloway is worn on the user's head and moved through water, water cannot pass through the openings and the openings do not act as apertures.

Regarding claims 13-17, these claims depend from claim 12 which applicant respectfully submits is allowable. Accordingly, claim 13-17 are at least allowable as depending from an allowable base claim.

Conclusion

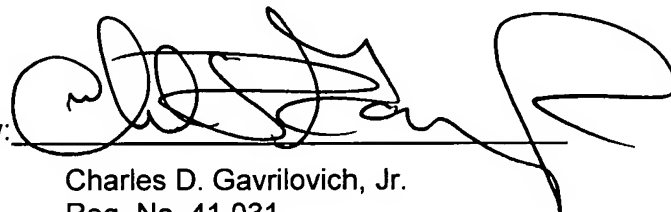
Applicant has amended claims 1, 12, 13, 15, and 16 in this Response. No new claims have been added and no claims have been cancelled. Applicant respectfully submits that claims 1-17 as now presented are allowable over the art cited.

Respectfully submitted,

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